

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 14-1651

Greater Omaha Packing Co., Inc.

Petitioner

Heartland Workers Center, Inc.

v.

National Labor Relations Board

Respondent

No: 14-1934

National Labor Relations Board

Petitioner

v.

Greater Omaha Packing Co., Inc.

Respondent

Heartland Workers Center, Inc.

Appeal from National Labor Relations Board
(17-CA-085735)
(17-CA-085736)
(17-CA-085737)

JUDGMENT

Before RILEY, Chief Judge, LOKEN and SMITH, Circuit Judges.

This cause was submitted on a petition for review of a final order of the National Labor Relations Board and cross-application by the National Labor Relations Board for enforcement. The cases were submitted on the record, briefs of the parties and were argued by counsel.

After consideration, it is hereby ordered and adjudged that the order of the National Labor Relations Board be enforced in part and vacated in part in accordance with the opinion of this Court, dated June 22, 2015. Petitioner/Cross-Respondent Greater Omaha Packing Co., Inc., is hereby ordered to abide by the proposed judgment which is attached to this judgment and incorporated herein.

July 15, 2015

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

GREATER OMAHA PACKING CO., INC.)	
)	
Petitioner/Cross-Respondent)	
)	
v.)	Nos. 14-1651 &
)	14-1934
NATIONAL LABOR RELATIONS BOARD)	
)	
Respondent/Cross-Petitioner)	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before: RILEY, Chief Judge, LOKEN and SMITH, Circuit Judges.

THIS CAUSE came to be heard upon a petition filed by Greater Omaha Packing Co., Inc. to review, and a cross-application filed by the National Labor Relations Board to enforce, the March 12, 2014 Order of the National Labor Relations Board in Case Nos. 17-CA-085735, 17-CA-085736 and 17-CA-085737, reported at 360 NLRB No. 62 (2014). The Court heard argument and considered the briefs and record filed in this case and, on June 22, 2015, handed down its opinion granting Greater Omaha Packing Co., Inc.'s petition in part and granting in part the Board's cross-application for enforcement. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the Court that

Greater Omaha Packing Co., Inc., Omaha, Nebraska ("Greater Omaha Packing"), its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Discharging or otherwise discriminating against any employee for engaging in protected concerted activities.

- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Within 14 days from the date of this Order, offer Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
 - (b) Make Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the judge's decision as modified in the Board's decision.
 - (c) Reimburse Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez an amount equal to the difference in taxes owed upon receipt of a lump-sum backpay payment and taxes that would have been owed had there been no discrimination against them.
 - (d) Submit the appropriate documentation to the Social Security Administration so that when backpay is paid to Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez, it will be allocated to the appropriate periods.
 - (e) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharges, and within 3 days thereafter notify the employees in writing that this has been done and that the discharges will not be used against them in any way.
 - (f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
 - (g) Within 14 days after service by the Region, post at its Omaha, Nebraska facility copies of the attached notice marked "Appendix," in both English and Spanish. Copies of the notice, on forms provided by the Regional Director for Region 17, after being signed by Greater Omaha Packing's authorized representative, shall be posted by Greater Omaha

Packing and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if Greater Omaha Packing customarily communicates with its employees by such means. Reasonable steps shall be taken by Greater Omaha Packing to ensure that the notices are not altered, defaced, or covered by any other material. If Greater Omaha Packing has gone out of business or closed the facility involved in these proceedings, Greater Omaha Packing shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Greater Omaha Packing at any time since May 14, 2012.

- (h) Within 21 days after service by the Region, file with the Regional Director for Region 17 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Greater Omaha Packing has taken to comply.

July 15, 2015

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX
NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF
THE UNITED STATES COURT OF APPEALS ENFORCING
AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO
Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against you for engaging in protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, within 14 days from the date of the Court's Order, offer Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest compounded daily.

WE WILL compensate Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file a report with the Social Security Administration allocating the backpay award to the appropriate calendar quarters.

WE WILL, within 14 days from the date of the Court's Order, remove from our files any references to the unlawful discharges of Carlos Zamora, Jorge Degante Enriquez, and Susana Salgado Martinez, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done and that the discharges will not be used against them in any way.

GREATER OMAHA PACKING CO., INC.